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7 UNITED STATES DISTRICT COURT  
8 CENTRAL DISTRICT OF CALIFORNIA  
9 WESTERN DIVISION  
10

11 ) No. CV 13- (VBK)  
12 )  
13 Plaintiff, ) CASE MANAGEMENT ORDER  
14 )  
15 v. ) (Social Security Case)  
16 )  
17 CAROLYN W. COLVIN, Acting )  
18 Commissioner of Social )  
19 Security, )  
20 )  
21 Defendant. )  
22 )  
23 )  
24 )  
25 )  
26 )  
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28 )

18 **PLEASE READ THIS ORDER CAREFULLY. IT CONTAINS NEW PROCEDURES FOR**  
19 **JUDGE KENTON'S CASES, IN PARTICULAR, SHORTER FILING DEADLINES.**  
20

21 **E-Filing Instructions:**

22 In accordance with Local Rule 5-4.1, this case is designated for  
23 electronic filing. [Counsel shall electronically file all documents by  
24 4:00 pm on or before the due date.] [Courtesy copies of the following  
25 electronically filed documents, with the Notice of Electronic Filing  
26 attached, shall either (a) be delivered to the Magistrate Judge's  
27 Chambers no later than 4:00 pm on the next court day, or (b) shall be  
28 mailed to Magistrate Judge Victor B. Kenton at the Edward R. Roybal

1 Federal Building and Courthouse, 255 East Temple Street, Los Angeles,  
2 CA 90012 no later than the next court day.]:

- 3 1. For any motion to dismiss the Complaint: the motion and  
4 supporting papers, the opposition papers, and the reply  
5 papers.
- 6 2. The Joint Stipulation.
- 7 3. For any motion or petition for attorney fees, costs, and  
8 expenses pursuant to 28 U.S.C. §2412 (EAJA): the motion or  
9 petition and supporting papers, the opposition papers, and  
10 the reply papers.
- 11 4. For any motion or petition for attorney fees pursuant to 42  
12 U.S.C. §406(b); the motion or petition and supporting  
13 papers, the Commissioner's statement or opposition papers,  
14 and the reply papers.
- 15 5. The Certified Administrative Record.

16  
17 In order to facilitate the just, speedy, and inexpensive  
18 determination of this case, the parties shall comply with the  
19 following instructions.

20  
21 **I**

22 **SERVICE OF THE SUMMONS AND COMPLAINT**

23 Plaintiff shall promptly serve the summons and complaint on the  
24 Commissioner in the manner required by Rule 4(i) of the Federal Rules  
25 of Civil Procedure and 20 C.F.R. §423.1. Such service shall consist  
26 of sending a copy of the summons and complaint by registered or  
27 certified mail to each of the following: (a) the United States  
28 Attorney for the Central District of California, or his or her

1 authorized agent, addressed to the Civil Process Clerk at the Office  
2 of the United States Attorney, Civil Division, Room 7516, Federal  
3 Building, 300 North Los Angeles Street, Los Angeles, California 90012;  
4 (b) the Commissioner of Social Security, Region IX Chief Counsel,  
5 Office of the General Counsel, 160 Spear Street, Suite 80, San  
6 Francisco, California 94105-1545; and (c) the Attorney General of the  
7 United States, 950 Pennsylvania Avenue Northwest, Washington, D.C.  
8 20530. Plaintiff shall electronically file a proof of service  
9 showing compliance with this paragraph within twenty-eight (28) days  
10 after the filing of the complaint.<sup>1</sup> Failure to comply with this  
11 paragraph may result in dismissal of this case.

## 12 13 II

### 14 MOTION TO DISMISS

15 Any motion to dismiss the complaint shall be electronically filed  
16 in accordance with the rules governing noticed motions; provided,  
17 however, that the motion shall be deemed submitted on the basis of the  
18 papers timely filed as of the hearing date, without oral argument,  
19 unless the Court orders otherwise. See Fed.R.Civ.P. 7 and 12; C.D.  
20 Cal. Local Rules 7 and 12. [Courtesy copies of all motion papers  
21 (including the opposition and reply), with the Notice of Electronic  
22 Filing attached, shall either (a) be delivered to the Magistrate  
23 Judge's chambers no later than 4:00 pm on the next court day, or (b)

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24  
25 <sup>1</sup> If this Case Management Order is electronically filed prior  
26 to service of the summons and complaint, plaintiff shall serve a copy  
27 of this order concurrently with the summons and complaint. If this  
28 order is electronically filed after the service of the summons and  
complaint, plaintiff shall serve a copy of it by first-class mail on  
the Office of the United States Attorney within fourteen (14) days  
from the date the order is electronically filed, and plaintiff shall  
promptly electronically file a proof of service with the Court.

1 shall be mailed to Magistrate Judge Victor B. Kenton at the Edward R.  
2 Roybal Federal Building and Courthouse, 255 East Temple Street, Los  
3 Angeles, CA 90012, no later than the next court day.]  
4

5 **III**

6 **RESPONSIVE PLEADINGS AND FILING OF**

7 **ADMINISTRATIVE RECORD AND NOTICE THEREOF**

8 The Commissioner shall have ninety (90) days from the date of  
9 service of the complaint to plead to the Complaint. The Commissioner  
10 shall file a certified transcript of the administrative proceedings at  
11 the same time that the Commissioner pleads to the Complaint. The  
12 certified administrative record shall be manually filed with the Clerk  
13 and served upon the parties in the traditional manner. A Notice of  
14 Manual Filing and Service of the Administrative Record, Form G-92,  
15 shall be electronically filed.  
16

17 **IV**

18 **DISCOVERY AND PRE-TRIAL PROCEEDINGS**

19 No discovery or other pre-trial proceedings not authorized by  
20 this order shall be conducted without leave of court. In particular,  
21 no motion for summary judgment shall be filed. The decision in this  
22 case will be made on the basis of the pleadings, the administrative  
23 record, and the Joint Stipulation filed by the parties. In accordance  
24 with Rule 12(c) of the Federal Rules of Civil Procedure, the Court  
25 will determine which party is entitled to judgment under the standards  
26 set forth in 42 U.S.C. § 405(g).  
27

28 **V**

1                                   **MANDATORY SETTLEMENT PROCEDURES**

2           The parties shall engage in good faith settlement negotiations to  
3 resolve the matter.

4  
5                                   **VI**

6                                   **JOINT STIPULATION**

7           If the parties cannot resolve the matter in settlement  
8 discussions (and there is no motion to dismiss or motion to remand  
9 pending before the Court), the parties shall electronically file a  
10 Joint Stipulation in the manner, and according to the schedule, set  
11 forth below. The parties shall cooperate in preparing the Joint  
12 Stipulation, and sanctions may be imposed for any failure to  
13 cooperate. A Joint Stipulation that is not signed by counsel for both  
14 parties may be rejected and stricken by the Court. A Joint  
15 Stipulation that is electronically filed, but that is not prepared in  
16 the manner required by this order, may be stricken, in which event the  
17 parties will be required to cure the defects by electronically filing  
18 an Amended Joint Stipulation.

19  
20                                   **VII**

21                                   **CONTENT OF JOINT STIPULATION**

22           The Joint Stipulation shall include a brief summary of the case,  
23 the parties' positions with respect to the Administrative Law Judge's  
24 ("ALJ") summary of the material medical evidence and testimony of  
25 record, a statement of the disputed issues, the parties' contentions  
26 with respect to each disputed issue, and the parties' statements of  
27 the relief requested. Any issue not raised in the Joint Stipulation  
28 may be deemed to have been waived. The Court is familiar with the

1 standard of review and the sequential evaluation process, so the  
2 parties should avoid boilerplate discussions of the governing legal  
3 standards. Rather, the parties should focus on applying relevant and  
4 controlling legal authority to the facts germane to each disputed  
5 issue.<sup>2</sup> When citing cases, statutes, regulations, Social Security  
6 Rulings, medical and vocational reference sources, or other legal  
7 authority to support their legal arguments, the parties shall provide  
8 complete and accurate citations to the portions of those authorities  
9 relied upon. The parties shall also specify the evidence upon which  
10 they rely to support their contentions, and provide accurate page  
11 citations to the administrative record for all evidence relied upon  
12 ["AR \_\_\_\_"]. In addition, all medical terminology (including medical  
13 conditions, diagnoses, procedures, tests, anatomical references, and  
14 pharmaceuticals) shall be defined in terms understandable to a  
15 layperson, preferably by citation to a medical dictionary or glossary  
16 from a standard reference work. The parties may not supplement the  
17 record beyond definition of technical terms.

## 18 19 VIII

### 20 FORM OF JOINT STIPULATION

21 The Joint Stipulation shall be prepared in the following format,  
22 and shall comply with the local rules governing form and typeface:

23 //

24 //

#### 25 **A. Summary of the Case**

26 \_\_\_\_\_  
27 <sup>2</sup> The parties should cite only controlling case authority  
28 (i.e., decisions of the United States Supreme Court or the Ninth  
Circuit Court of Appeals). If there is no controlling authority, the  
decisions of other courts may be cited.

1 Plaintiff shall provide a brief summary of the background facts  
2 and procedural history. The Commissioner need not respond to  
3 plaintiff's summary, unless the Commissioner believes that plaintiff's  
4 summary misstates, mischaracterizes or omits any material facts or  
5 proceedings.

6  
7 **B. Medical Evidence**

8 1. Plaintiff shall state whether plaintiff will stipulate  
9 that the ALJ's decision fairly and accurately summarizes the  
10 material medical evidence and testimony of record. If not,  
11 plaintiff shall either (a) specify the respects in which  
12 plaintiff contends the ALJ's decision misstates,  
13 mischaracterizes, or omits any of the material medical evidence  
14 and/or testimony of record, or (b) state that the contentions of  
15 misstatement, mischaracterization, or omission are addressed in  
16 the argument in support of the Joint Stipulation.

17 2. The Commissioner shall state whether the Commissioner  
18 will stipulate that the ALJ's decision fairly and accurately  
19 summarizes the material medical evidence and testimony of record.  
20 If not, the Commissioner shall either (a) specify the respects in  
21 which the Commissioner contends that the ALJ's decision  
22 misstates, mischaracterizes, or omits any of the material medical  
23 evidence and/or testimony of record, or (b) state that the  
24 contentions of misstatement, mischaracterization, or omission are  
25 addressed in the argument in support of the Joint Stipulation.

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28 **C. Statement of Disputed Issues**

1 Plaintiff shall identify and frame, in a neutral fashion, each of  
2 the disputed issues that plaintiff is raising as the grounds for  
3 reversal and/or remand. [Example: "Issue No. 1 - Whether the ALJ  
4 properly evaluated plaintiff's subjective complaints of pain."]  
5

6 **D. Issues and Contentions**

7 1. Issue No. 1 [The heading shall conform to the first  
8 issue listed in the Statement of Disputed Issues.]

9 a. Plaintiff's Contentions Regarding Issue No. 1  
10 [Plaintiff shall concisely set forth plaintiff's contentions  
11 (including citations to the page(s) of the administrative  
12 record where cited evidence is found, complete citations to  
13 relevant legal authority, and definitions of medical  
14 terminology).]

15 b. The Commissioner's Contentions Regarding Issue No.  
16 1 [The Commissioner shall concisely set forth The  
17 Commissioner's contentions (including citations to the  
18 page(s) of the administrative record where cited evidence is  
19 found, complete citations to relevant legal authority, and  
20 definitions of medical terminology).]

21 c. Plaintiff's Reply Regarding Issue No. 1 [Plaintiff  
22 may, but is not required to, reply to the contentions  
23 actually raised by the Commissioner; provided, however, that  
24 any such reply does not exceed 56 continuous lines of text  
25 per issue.]

26 2. Issue No. 2, etc. [Repeat the foregoing format as  
27 needed.]  
28



1       **E. Relief Requested**

- 2           1. Plaintiff's statement of relief requested.
- 3           2. The Commissioner's statement of relief requested.
- 4

5                               **IX**

6       **SCHEDULE FOR PREPARATION AND FILING OF JOINT STIPULATION**

7       The Joint Stipulation shall be prepared and electronically filed  
8 according to the following schedule:

9       A. Within thirty (30) days of the filing of the answer,  
10 plaintiff's counsel shall prepare and deliver to the Assistant United  
11 States Attorney ("AUSA") a draft of plaintiff's portions of the Joint  
12 Stipulation (prepared as described in section VIII, paragraphs A, B,  
13 C, D subparagraph a, and E). Plaintiff's counsel shall provide the  
14 AUSA and the Office of Regional Counsel with a printed copy of  
15 plaintiff's portions of the Joint Stipulation and a computer-readable  
16 copy on diskette or via e-mail. The draft of plaintiff's portions of  
17 the Joint Stipulation shall comply with the format and content  
18 requirements set forth elsewhere in this order.

19       B. Within thirty (30) days of the date on which plaintiff's  
20 counsel provides the AUSA and the Office of Regional Counsel with the  
21 draft of plaintiff's portions of the Joint Stipulation, the  
22 Commissioner shall provide to plaintiff's counsel the Commissioner's  
23 portions of the Joint Stipulation and shall deliver a printed and  
24 computer-readable copy of the Commissioner's portions of the Joint  
25 Stipulation to plaintiff's counsel. [The Court recognizes that  
26 differing word-processing platforms make incorporation of the entire  
27 Joint Stipulation into a single electronic document difficult. If the  
28 parties do not use the same word-processing platform, the parties may

1 break the Joint Stipulation into different sections on different pages  
2 as necessary.]

3 C. Within ten (10) days after the Commissioner provides  
4 plaintiff's counsel with the Commissioner's portions of the Joint  
5 Stipulation, plaintiff's counsel shall incorporate into the Joint  
6 Stipulation any reply that plaintiff may wish to make to the  
7 Commissioner's contentions, and shall deliver a completed copy of the  
8 Joint Stipulation signed by plaintiff to the AUSA for review,  
9 signature and electronic filing. [See paragraph B regarding  
10 incorporation and breaking of document.] Plaintiff shall not use the  
11 reply to raise new issues that the Commissioner has not had an  
12 opportunity to address.

13 D. Within three (3) days of delivery by plaintiff's counsel of  
14 the signed Joint Stipulation, the AUSA shall sign and electronically  
15 file the Joint Stipulation. [A courtesy copy of the Joint  
16 Stipulation, with the Notice of Electronic Filing attached, shall  
17 either (a) be delivered to Magistrate Judge Victor B. Kenton's  
18 chambers no later than 4:00 pm on the next court day, or (b) shall be  
19 mailed to Magistrate Judge Victor B. Kenton at Edward R. Roybal  
20 Federal Building and Courthouse, 255 East Temple Street, Los Angeles,  
21 CA 90012 no later than the next court day.]

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24 **REQUESTS FOR EXTENSIONS OF TIME**

25 The deadlines set forth in this order are designed to give  
26 parties exercising reasonable diligence sufficient time to perform the  
27 required acts without seeking extensions of time. Accordingly,  
28 requests for extensions of time are discouraged. Any such request

1 shall set forth specific facts showing that additional time is needed  
2 despite diligent attempts to meet a deadline. Requests for extensions  
3 of time shall be electronically filed at least three (3) days before  
4 the deadline that is the subject of the request. Whenever possible,  
5 a request for extension of time should be made in the form of a  
6 proposed stipulated order.

## 7 8 **XI**

### 9 **ORAL ARGUMENT**

10 Unless otherwise ordered, the issues presented in any Joint  
11 Stipulation shall be deemed submitted for decision without oral  
12 argument.

## 13 **XII**

### 14 **MOTIONS AND PETITIONS FOR ATTORNEY FEES**

#### 15 **A. Equal Access to Justice Act**

16 1. Any motion or petition for attorney fees, costs, and  
17 expenses shall be made in accordance with 28 U.S.C. § 2412  
18 (EAJA). Plaintiff shall electronically file a notice of any  
19 motion or petition for attorney fees, costs, and expenses  
20 under the EAJA and manually serve a copy on the Office of  
21 Regional Counsel. [A courtesy copy of the motion or petition,  
22 with the Notice of Electronic Filing attached, shall either  
23 (a) be delivered to the Magistrate Judge Victor B. Kenton's  
24 Chambers no later than 4:00 pm on the next court day, or (b)  
25 shall be mailed to Magistrate Judge Victor B. Kenton at Edward  
26 R. Roybal Federal Building and Courthouse, 255 East Temple  
27 Street, Los Angeles, CA 90012, no later than the next court  
28 day.]

1           2.    The Commissioner shall have a period of twenty-one  
2           (21) days from the date of electronic filing of the motion or  
3           petition within which to electronically file the  
4           Commissioner's opposition to the motion or petition. [A  
5           courtesy copy of the Commissioner's opposition, with the  
6           Notice of Electronic Filing attached, shall either (a) be  
7           delivered to the Magistrate Judge's chambers no later than  
8           4:00 pm on the next court day, or (b) shall be mailed to  
9           Magistrate Judge Victor B. Kenton at the Edward R. Roybal  
10          Federal Building and Courthouse, 255 East Temple Street, Los  
11          Angeles, CA 90012, no later than the next court day.]

12          3.    If the Commissioner believes that there is a  
13          possibility of arriving at a settlement with plaintiff of the  
14          fees, costs and expenses issue, the parties shall  
15          electronically file a stipulation to extend the time for the  
16          Commissioner to file an opposition for the purpose of  
17          affording the parties an opportunity to discuss settlement.  
18          Any such stipulated extension shall be electronically filed  
19          prior to the date the Commissioner's opposition is due, and  
20          the stipulated extension shall be for no more than thirty (30)  
21          days.

22          4.    Assuming either that there is no extension to  
23          discuss settlement or that no settlement is reached after such  
24          an extension, plaintiff may electronically file a reply to the  
25          Commissioner's opposition within ten (10) days of service  
26          thereof. [A courtesy copy of the reply, with the Notice of  
27          Electronic Filing attached, shall either (a) be delivered to  
28          the Magistrate Judge's chambers no later than 4:00 pm on the

1 next court day, or (b) shall be mailed to Magistrate Judge  
2 Victor B. Kenton at the Edward R. Roybal Federal Building and  
3 Courthouse, 255 East Temple Street, Los Angeles, CA 90012, no  
4 later than the next court day.]

5 5. The matter will stand submitted pursuant to Local  
6 Rule 7-15 as of the date of the last filing.

7  
8 **B. 42 U.S.C. § 406(b)**

9 1. Any motion or petition for attorney fees pursuant to  
10 42 U.S.C. § 406(b) shall be made by plaintiff's counsel within  
11 a reasonable time after the publication of a notice by the  
12 Commissioner allowing the Court to determine the maximum  
13 allowable fee under that provision. The motion or petition  
14 shall include a statement by plaintiff's counsel indicating  
15 the amount of EAJA fees and/or 42 U.S.C. § 406(a) fees awarded  
16 and/or requested.

17 2. Plaintiff's counsel shall electronically file a  
18 motion or petition for attorney fees pursuant to 42 U.S.C. §  
19 406(b) and manually serve copies on the Office of Regional  
20 Counsel and on the plaintiff. Plaintiff's counsel shall state  
21 in any notice that plaintiff may file any statement or  
22 opposition with the Court not more than fourteen (14) days  
23 after service of the motion [petition], and that any statement  
24 or opposition filed by plaintiff shall be served on both  
25 plaintiff's counsel and the AUSA. [A courtesy copy of the  
26 motion or petition, with the Notice of Electronic Filing  
27 attached, shall either (a) be delivered to the Magistrate  
28 Judge's chambers no later than 4:00 pm on the next court day,

1 or (b) shall be mailed to Magistrate Judge Victor B. Kenton at  
2 the Edward R. Roybal Federal Building and Courthouse, 255 East  
3 Temple Street, Los Angeles, CA 90012, no later than the next  
4 court day.]

5 3. The Commissioner shall electronically file any  
6 statement or opposition not more than fourteen (14) days after  
7 service of the motion or petition, and also manually serve a  
8 copy on the plaintiff. [A courtesy copy of the Commissioner's  
9 statement or opposition, with the Notice of Electronic Filing  
10 attached, shall either (a) be delivered to the Magistrate  
11 Judge's chambers no later than 4:00 pm on the next court day,  
12 or (b) shall be mailed to Magistrate Judge Victor B. Kenton at  
13 the Edward R. Roybal Federal Building and Courthouse, 255 East  
14 Temple Street, Los Angeles, CA 90012, no later than the next  
15 court day.]

16 4. Plaintiff's counsel may electronically file a reply  
17 in support of the motion or petition within seven (7) days of  
18 service of any statement or opposition, and also manually  
19 serve a copy on the plaintiff. [A courtesy copy of the reply,  
20 with the Notice of Electronic Filing attached, shall either  
21 (a) be delivered to the Magistrate Judge's chambers no later  
22 than 4:00 pm on the next court day, or (b) shall be mailed to  
23 Magistrate Judge Victor B. Kenton at the Edward R. Roybal  
24 Federal Building and Courthouse, 255 East Temple Street, Los  
25 Angeles, CA 90012, no later than the next court day.]

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